

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LEE JENKINS,

Plaintiff,

No. CIV S-04-2520 LKK JFM P

vs.

ARNOLD SCHWARZENEGGER,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se. By order filed November 9, 2005, plaintiff was advised that the court would invite an opportunity to allow plaintiff to file objections in light of his recent notice that he had not received a copy of the July 28, 2005 findings and recommendations, if plaintiff were to file a motion to dismiss the pending appeal. On January 9, 2006, plaintiff's request to voluntarily dismiss the appeal was granted, and on January 19, 2006, plaintiff filed a motion to set aside judgment in this action. On February 16, 2006, plaintiff filed another motion to set aside judgment.

Because it appears plaintiff did not receive the July 28, 2005 findings and recommendations and therefore was deprived of an opportunity to file objections, plaintiff's motion to set aside the judgment will be granted. Fed. R. Civ. P. 60(b)(1). The Clerk of the

1 Court will be directed to serve plaintiff with a copy of the July 28, 2005 findings and  
2 recommendations and plaintiff will be provided an opportunity to file objections thereto.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's January 19, 2006 and February 16, 2006 motions to set aside the  
5 judgment are granted;

6 2. The September 13, 2005 judgment and order adopting findings and  
7 recommendations are vacated;

8 3. The Clerk of the Court is directed to serve a copy of the July 28, 2005 findings  
9 and recommendations on plaintiff; and

10 4. Plaintiff is granted twenty days from the date of this order in which to file  
11 objections to the July 28, 2005 findings and recommendations.

12 DATED: March 9, 2006.

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14 /s/Lawrence K. Karlton  
15 UNITED STATES DISTRICT JUDGE

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